REMARKS

In response to the above referenced Office Action, Applicant amends Claims 1, 8, 11, 16, 19, 20, 23 and 26, and cancels Claims 10, 18 and 21 and seeks reconsideration thereof. Accordingly, Claims 1-29 are pending.

In the Specification

Applicant has amended paragraphs 4 and 34 to correct typographical errors.

Applicant has amended paragraphs 24 line 3 to add description to the reference character 206 depicted in Figure 2.

Applicant has amended paragraphs 27 line 2 to add description to the reference character 300 depicted in Figure 3.

Applicant has amended paragraphs 30 line 3 to add description to the reference character 400 depicted in Figure 4.

Applicant has amended paragraphs 32 to add description to the reference character 510T, 511T, 512T, and 514T depicted in Figure 5.

Applicant has amended paragraphs 42 to add description to the reference character 864 depicted in Figure 8.

Claims Rejected Under 35 U.S.C. § 102

Claims 1-12 and 15-29 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,619,247 issued to Russo, et al. ("Russo"). Applicant respectfully disagrees with the rejection.

It is axiomatic that to anticipate a claim, every limitation of that claim must be disclosed within a single reference.

Claim 1 as amended recites a method comprising: *receiving information obtained from* at least one of a consumer and a storage area and selecting, substantially automatically, multimedia-

content to be broadcast to the consumer based on *predetermined criteria set by a provider and the receiving.*

According to the Examiner, the second limitation of Claim 1 is met by "the subscriber-operated storage-management facilities, which are broadcast to and stored at the user device based on the user selection." Applicant respectfully submits that the subscriber-operated storage management facilities are <u>not</u> to be broadcast to and stored at the user device. However, after carefully examining the reference cited by the Examiner, Applicant believes that the Examiner had meant recording of program materials may be directed automatically by subscriber-operated storage management facilities (col. 3, lines 12-14). Even assuming arguendo, <u>Russo</u> refers to the automatic selection of the program materials to be recorded, such selection is based strictly on viewer preferences and requires input and direction from the subscribers. Applicant respectfully submits that Claim 1 as amended is not anticipated by <u>Russo</u> because <u>Russo</u> does not teach or suggest selecting, substantially automatically, multimedia-content based on *predetermined criteria set by a provider and the receiving.*

Dependent Claims 2-7 depend from Claim 1 and therefore include all the limitations from that claim. Accordingly, reconsideration and withdrawal of the above rejections are respectfully requested.

With respect to Claim 8, Claim 8 recites "selecting substantially automatically, multimedia content to be broadcast to a consumer, based on *predetermined criteria set by a provider* and on information obtained from at least one of a consumer and a storage area." The Examiner admits that <u>Russo</u> teaches that the selected program material is decided <u>by the consumer, based on viewer preference</u>, or <u>direct selection by the user</u>. Applicant respectfully submits that the <u>Russo</u> selection, although may seem automatic, is not the *selecting substantially automatically* as claimed in Claim 8 because <u>Russo</u> **requires user input**, whether it is decided by the consumer, based on viewer preference, or direct selection by the user. In contrast to <u>Russo,</u> Claim 8 claims the selecting is based on *predetermined criteria set by a provider.*

Dependent Claim 9 depends from Claim 8 and therefore includes all the limitations from that claim. Accordingly, reconsideration and withdrawal of the above rejections are respectfully requested.

With respect to Claim 11, analogous arguments apply regarding the Russo reference. Again, according to the Examiner, col. 7, lines 12-23 of Russo teaches the selections based upon input criteria from the user. However, Russo does not teach or suggest "broadcasting the selection of the multimedia-content to a consumer, wherein the selection is based on *predetermined criteria set by a provider* and on information obtained from at least one of a consumer and a storage area" but rather in Russo, the broadcasting requires user inputs.

Dependent Claims 12-15 depend from Claim 11 and therefore include all the limitations from that claim. Accordingly, reconsideration and withdrawal of the above rejections are respectfully requested.

With respect to Claims 16 and 20, analogous arguments apply regarding the Russo reference. According to the Examiner, col. 3, line 12-28 recites the subscriber-operated storage-management facility, which decides which materials are to be recorded and which programs are to be deleted. However, the subscriber-operated storage management facility requires direct management by the subscriber. Applicant respectfully submits that Russo does not teach or suggest managing the multimedia-content stored in the storage area, wherein managing is based on *whether the consumer elects a self management scheme or an auto management scheme provided by a provider.*

Dependent Claims 17-19 depend from Claim 16 and therefore include all the limitations from that claim. Accordingly, reconsideration and withdrawal of the above rejections are respectfully requested.

Dependent Claim 22 depends from Claim 20 and therefore includes all the limitations from that claim. Accordingly, reconsideration and withdrawal of the above rejections are respectfully requested.

With respect to Claims 23 and 26, arguments analogous to those set forth in connection with Claim 1 above apply. Applicant respectfully submits that Russo does not teach or suggest a storage area to store multimedia-content, wherein the multimedia-content is selected based on *predetermined criteria set by a provider and* on information obtained from at least one of a consumer and storage area.

Dependent Claims 24 and 25 depend from Claim 23 and Claims 27-29 depend from Claim 26, thus include all the limitations from that claim. Accordingly, reconsideration and withdrawal of the above rejections are respectfully requested.

Claims Rejected Under 35 U.S.C. § 103(a)

The Examiner has rejected Claims 13 and 14 under 35 U.S.C. § 103(a) as being unpatentable over Russo. Applicant respectfully disagrees with this rejection.

To establish a *prima facie* case of obviousness, the Examiner must show the cited references, combined, teach or suggest each of the limitation of a claim.

With respect to dependent Claims 13 and 14, Applicant directs the Examiner's attention to the above discussion regarding Claim 11. Claim 11 is independently patentable and dependent Claims 13 and 14 depend from Claim 11, therefore, Claims 13 and 14 contain all the limitations of Claim 11, specifically, broadcasting the selection of the multimedia-content to a consumer, wherein the selection is based on *predetermined criteria set by a provide* and on information obtained from at least one of a consumer and a storage area.

Accordingly, reconsideration and withdrawal of the above rejections are respectfully requested.

CONCLUSION

In view of the forgoing, it is believed that all claims now pending are in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional frees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. Questions regarding this matter should be directed to the undersigned at (310) 207-3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: <u>October 17, 2005</u>

Thomas M. Coester, Reg. No. 39,637

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, California 90025
Telephone (310) 207-3800
Facsimile (310) 820-5988

CERTIFICATE OF MAILING
I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Melésa Noguera   October 17, 2005